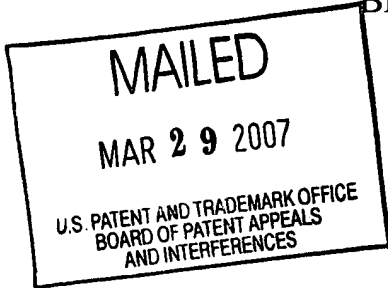


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte BERNHARD LETTMANN

Application 10/018,336

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 6, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A Panel Remand was filed on September 29, 2006, requesting the examiner to:

- 1) Notify the Appellant that the Reply Brief is not in compliance with 37 CFR § 41.41(a)(2004) so that he has an opportunity to comply with the Rule; and

2) Provide, upon compliance with said Rule, a Supplemental Answer limited to the rejection of only those appealed claims and a complete response addressing any arguments directed to the appealed claims.

On February 27, 2007, a communication from the examiner was mailed, responding to the Panel Remand. In reviewing the response, the examiner did not comply with the remand. Furthermore, the Examiner's response in the communication of February 27, 2007, is confusing. On the first line, the communication states "The reply brief of filed on October 17, 2005 has not been considered because it is not in compliance with 37 CFR 41.41(a). The reply brief included a new amendment." The communication on line three then states "Amendment filed on or after the date of filing a brief requested per 37 CFR 41.33(b)(1) is entered." It appears from the record the amendment referred to in line 3 of the communication of February 27, 2007 was submitted with the reply brief filed on October 17, 2005, and according to line 1 of the communication of February 27, 2007 was NOT considered. Clarification is required. Accordingly, it is


ORDERED that the application is being electronically returned to the Examiner;

1) to clarify the communication of February 27, 2007;

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- 2) to allow Appellant an opportunity to respond to said communication;
- 3) to file a supplemental Examiner's Answer to address only the appealed claims for reasons set forth in Panel Remand of September 29, 2006;
- 4) and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/gjh

BASF CORPORATION
PATENT DEPARTMENT
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTT, MI 48192